

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

Ohio County Commission, *et al.*,

Plaintiffs,

v.

Express Scripts, Inc., *et al.*,

Defendants.

Case No.: 5:24-CV-142-JPB

Honorable John Preston Bailey

**[PROPOSED] ORDER GRANTING THE EXPRESS SCRIPTS ENTITIES'
MOTION FOR RECONSIDERATION OR IN THE ALTERNATIVE TO CERTIFY FOR
INTERLOCUTORY REVIEW**

Pending before this Court is Express Scripts' motion for reconsideration of the Court's August 4, 2025 Order, or, in the alternative, to certify its Order for immediate interlocutory review to the United States Court of Appeals for the Fourth Circuit.

The motion is granted. The Court hereby amends its August 4, 2025 Order at ECF No. 192 as follows:

- The trials specified in the Order will be jury trials, not bench trials.
- The Phase I trial specified in the Order will address liability for public nuisance for each separate Plaintiff (city, county, or town), not statewide. The Phase II trial specified in the Order will address abatement for each separate Plaintiff (city, county, or town), not statewide. The Parties may agree on selecting bellwether Plaintiffs to limit the number of Plaintiffs whose claims proceed through discovery and trial.
- Defendants will not be limited to twenty non-expert depositions. Instead, Defendants will be allowed to take at least seven 30(b)(1) depositions and one 30(b)(6) deposition

for each Plaintiff whose claims proceed through discovery, and Defendants can take more depositions for a particular Plaintiff for good cause. There are no numerical limits on the number of depositions Defendants can take of non-parties.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

DATED: _____

JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE